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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 15 April 2003 from the Permanent Representative of Canada to the United Nations addressed to the Chairman of the Committee

Security Council resolution 1455 (2003) calls upon all States to report to the Committee on how they have implemented the measures contained in paragraph 1, which includes reference to paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002).

I would be grateful if you would inform the Committee that Canada has implemented all of these measures through, inter alia, legislative and regulatory instruments, as described in the attached document (see annex).

(*Signed*) Paul **Heinbecker**
Ambassador and Permanent Representative

03-35070 (E) 020603

Annex to the letter dated 15 April 2003 from the Permanent Representative of Canada to the United Nations addressed to the Chairman of the Committee

Report of Canada pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

In Canada, there are individuals who support, or are sympathetic to bin Laden, al Qaida or its affiliated organizations, or adhere to their ideologies. Canada's al Qaida presence includes individuals who have passed through the training camps in Afghanistan and are familiar with weapons and explosives. The fact that there is no organized al Qaida presence in Canada means that al Qaida sympathizers in this country are limited with respect to planning and continuity of operations, initiative and focus.

In a statement made on November 12, 2002, bin Laden specifically identified certain countries, including Canada, that allied themselves with the US in the campaign against terrorism. This was the first time that Canada has been specifically mentioned in a statement issued by bin Laden. Despite earlier beliefs that Canada and Canadians were never the focus of al Qaida, this statement has heightened the possibility and concern regarding an attack within Canada, against either US interests or Canadian targets and against Canadian interests abroad.

II. Consolidated list

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The 1267 list has been incorporated into Canada's legal system in two ways. The 1267 list has been incorporated by reference into Canada's *United Nations Afghanistan Regulations*, which were made imposed by these Regulations. These Regulations also prohibit the provision of arms to the Taliban.

The 1267 list has also been incorporated by reference into Canada's *United Nations Suppression of Terrorism Regulations*. These Regulations provide for an asset freeze for all persons or entities on the 1267 list and furthermore, prohibit fund raising on behalf of persons listed in a schedule to the Regulations. These Regulations also require financial institutions to report monthly to regulators on any assets of listed persons in their possession. They also require any person in Canada or Canadian outside of Canada to disclose to the police and intelligence service the existence of any property of a listed person in their possession. These Regulations also prohibit making available any property for the benefit of a listed person which would include arms.

The 1267 list is regularly provided on the website of the Office of the Superintendent of Financial Institutions (OSFI) which is accessible by Canadian financial institutions.

The *Immigration and Refugee Protection Act* contains provisions for the denial of entry and removal from Canada of suspected terrorists.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

The absence of appropriate identifiers makes it difficult at times to assess whether a person is the listed person. This requires additional work to be done by law enforcement authorities, thereby delaying the process, and at times affecting innocent individuals whose assets may have been frozen.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

No

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

N/A

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

No

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Yes — Ahmad Sa'id al-Kadr (Canadian citizen who is no longer resident in Canada).

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

The *Anti-terrorism Act* amended the *Criminal Code of Canada* to create several offences related to terrorism. Under the *Criminal Code*, it is a crime to knowingly participate in, contribute to or facilitate the activities of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity. In addition, any indictable offence under any Act of Parliament that is done for the benefit of, at the direction of, or in association with a terrorist group, carries a maximum sentence of life imprisonment. An offender convicted of any indictable offence that is also a terrorist activity would be liable to life imprisonment. Terrorist activities are defined in the *Criminal Code*.

Canada's *United Nations Suppression of Terrorism Regulations* prohibit fund raising on behalf of listed persons.

III. Financial and economic asset freeze

9. **Please describe briefly:**

•the domestic legal basis to implement the asset freeze required by the resolutions 1267 4(b), 1390 1 and 2(a);

Paragraph 4(b) of resolution 1267, paragraph 8(c) of resolution 1333 and paragraphs 1 and 2(a) of resolution 1390 are implemented in Canada by way of the *United Nations Afghanistan Regulations*, which were made on November 10, 1999. Section 4 of those Regulations effectively requires the freezing by persons in Canada and Canadians outside Canada of the assets of the Taliban, as designated by the Committee. The Regulations were amended on February 22, 2001 to implement resolution 1333 and freeze the assets of Osama bin Laden or his associates, as designated by the Committee.

Paragraph 2(c) of resolution 1390 has been implemented through Section 4 of the *United Nations Suppression of Terrorism Regulations*, which prohibits dealing in the property of a listed person (which includes those persons listed by the Committee), entering into any transaction with a listed person, and making any property available for the benefit a listed person.

•any impediments under your domestic law in this context and steps taken to address them.

No

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

Canada's *Proceeds of Crime and (Money Laundering) and Terrorism Financing Act* (PCMLTFA), amended December 2001, was made, in part, to implement specific measures to detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering and terrorist financing offences. Individuals and businesses that are identified in the Act are required to report certain prescribed transactions to Canada's Financial Intelligence Unit, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). When FINTRAC determines that there are reasonable grounds to suspect that the information would be relevant to investigating or prosecuting a money laundering or terrorist financing offence, it will disclose only designated information to the appropriate law enforcement authorities.

Canada's federal law enforcement authority, the Royal Canadian Mounted Police (RCMP), has increased its capacity to track, detect and dismantle the financial capabilities of terrorists through the creation of a Financial Intelligence Branch. In the December 12th, 2001, Federal Budget announcement, the RCMP received a total of $576 million earmarked exclusively for national security initiatives. These funds will be used to respond to existing and emerging national security threats.

In addition to those efforts, a section of the *Criminal Code* imposes the obligation on any person in Canada and every Canadian outside of Canada to communicate to the RCMP and the Canadian Security and Intelligence Service (CSIS) the existence of property, or of transactions or proposed transactions in relation to property owned or controlled by or on behalf of a terrorist group. A contravention of this obligation constitutes an offence.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Financial institutions operating in Canada are required to determine on a continuing basis whether they are in possession or control of property owned or controlled on behalf of terrorist organizations or individuals listed under Canadian law (which includes Osama bin Laden or members of al Qaida or the Taliban, or associated entities or individuals) ("listed person"). Financial institutions are required to disclose immediately to law

enforcement (RCMP) and intelligence agencies (CSIS and FINTRAC) information related to property if financial institutions have reason to believe that the property is controlled by or on behalf of a listed person.

In addition, financial institutions operating in Canada are required by law to report aggregate information (currently monthly) to their regulatory authorities that they are not in possession of property owned or controlled on behalf of a listed person or if they have reasonable grounds to believe that they are in possession, the aggregate information related to total number of persons, contracts or accounts and the aggregate value of property associated with a listed person. Financial institutions must make their own determination as to whether they are dealing with a listed person. Merely identifying the same name as that of a listed person is not sufficient. Institutions must conduct additional due diligence such as reviewing their records and dealings with the person in order to satisfy themselves that a person whose name is the same as, or similar to that of a listed person is actually a listed person.

If financial institutions are unable to conclude that the person is not a listed person they are encouraged to consult with law enforcement (RCMP) to see if law enforcement might be able to provide additional information to assist in making such a determination.

The PCMLTFA imposes certain reporting, record-keeping and client identification requirements on financial institutions operating in Canada.

The records that must be kept vary depending on the reporting entity in question. In general, entities must keep the following records:

1. Large cash transaction records
2. Account opening records
3. Certain records created in the normal course of business
4. Certain records about the operation of an account
5. Foreign currency exchange transaction tickets
6. Trust related records (trust companies)

With respect to "know your client" requirements, financial institutions must identify their clients in the following situations:

1. Any large cash transaction of $10,000 or more
2. Any international wire transfer of $10,000 or more
3. Any personal or business account opening
4. Any foreign exchange transaction of $3,000 or more

In addition, financial institutions must identify non-account holders when they purchase or redeem $3,000 or more in travellers' cheques, or they remit or transmit $3,000 or more through any means.

For the purposes of the PCMLTFA, client identification requires financial institutions to obtain an original copy of a passport, birth certificate, or piece of identification issued by a federal or provincial government (e.g. Driver's license).

In order to report suspicious transactions effectively, reporting entities are required to know both their client and what is normal for their client's business. In addition, a list of indicators has been provided to reporting entities to help them identify suspicious transactions. Guideline #2 on FINTRAC's website (www.fintrac.gc.ca) can be consulted for more information.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution.**

To date Canada has frozen approximately $340, 000 in 17 accounts in Canadian financial institutions.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

No

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.**

Immediately after the UN Security Council has added additional names to its consolidated list, the Office of the Superintendent of Financial Institutions (OSFI), sends letters by facsimile to all federally regulated financial institutions under its jurisdiction to inform them of the additions. Other regulatory bodies of financial institutions in Canada including provincial regulators and self-regulating organizations are sent the same facsimile so that they may also inform the financial institutions subject to their oversight of the changes.

The list of financial institutions informed would include banks, trust companies, loan companies, cooperative credit societies and centrals, credit unions, caisses populaires, securities dealers, entities authorized to provide portfolio management and investment counseling, life insurance companies, property and casualty insurance companies and fraternal benefit societies.

In addition, at the same time as OSFI informs the financial institutions and regulatory bodies, it posts a copy of the letter and the updated lists on its website so that all interested parties can access this information in as timely a manner as possible.

In addition, specific offences dealing with the financing of terrorism have been enacted. Therefore, 1) providing or collecting property knowing or intending that it be used for, *inter alia*, a terrorist activity, 2) providing or making available property or financial, or other related services, knowing, *inter alia*, that it will be used by a terrorist group, and 3) using property to facilitate or carry out a terrorist activity or possessing property knowing or intending that it be used for the same purpose, all are offences aimed at preventing that resources be made available to terrorist groups.

•The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.
•Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.
•Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.

The PCMLTFA covers the following reporting entities: financial institutions, such as banks, credit unions, caisses populaires, and trust and loan companies; casinos; money services businesses; foreign exchange dealers; life insurance companies; securities dealers; accountants; and real estate brokers and agents.

The above reporting entities have certain reporti ting, record-keeping, and client identification requirements. All reporting entities must identify and report suspi icious transactions and large cash ($10,000 or more) transactions to FINTRAC. In addition, financial institutions, s, foreign exchange dealers, and money services businesses must report the transmission or receipt of internation al wire transfers of $10,000 or more.

Reporting entities must file a Terrorist Property y Report when they have a requirement to freeze assets under the *Criminal Code*. As a reference, all reporting en ntities are referred to the Solicitor-General website and the OSFI website. If reporting entities are still in doubt a as to the identity of a potentially listed individual or entity, they are encouraged to consult the RCMP.

Reporting entities must also implement a compl pliance regime consisting of four elements:

1. the appointment of a compliance officer;
2. the development and application of compl pliance policies and procedures;
3. a periodic review of compliance policies a and procedures to test their effectiveness;
4. an on-going compliance training program for r any employees or agents or any other individuals authorized to act on behalf of the reporting entity.

In addition to the above reports, all Canadian in ndividuals and businesses must declare to the Canada Customs and Revenue Agency (CCRA) whenever they cross s the border carrying $10,000 or more in cash or monetary instruments. A similar declaration must be ma de when individuals or businesses send $10,000 or more in cash or monetary instruments into or out of Canada. F ailure to do so will result in seizure of the funds, and forfeiture will ensue unless it is demonstrated that the funds a are not proceeds of crime. Both declarations and seizure reports are sent to FINTRAC.

FINTRAC analyzes all reports, as well as other r information supplied voluntarily by law enforcement or the general public, for evidence of money launderi ing or the financing of terrorist activities. When FINTRAC has reasonable grounds to suspect that information n is relevant to the investigation or prosecution of a money laundering or terrorist financing offence, it may y disclose certain identifying information to the appropriate law enforcement agency.

For more information on the requirements for r reporting entities, please consult FINTRAC's website at www.fintrac.gc.ca and refer to the "Guidelines s" section.

•Restrictions or regulations, if any, placed or n the movement of precious commodities such as gold, diamonds and other related items.

The PCMLTFA does not place any requirements o on transactions dealing with high value commodities such as diamonds, gold, or jewelry.

•Restrictions or regulations, if any, applicable t to alternate remittance systems such as -- or similar to -- "hawala", as well as on charities, cultural and other non-p profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

Insofar as alternative remitters are engaged in t the business of a money services business, they are captured as a reporting entity under the PCMLTFA and are s subject to the requirements listed above.

Charities and other non-profit organizations ar re not captured under the PCMLTFA. Any transactions they conduct with reporting entities that satisfy the reporting thresholds (dollar amounts or reasonable suspicion) would be reported to FINTRAC.

One exception is charity casinos. All charities operating a casino are covered as casinos under the PCMLTFA unless the business is carried in the establishment of a casino for not more than two (2) consecutive days at a time under the supervision of an employee of the establishment.

The *Anti-terrorism Act* brought special legislative provisions into force to discourage the use of charities as a means by which terrorist groups fund-raise and provide cover for other forms of support to terrorism. Under the *Charities Registration (Security Information) Act*, an organization may be disqualified from registration or be ineligible to apply as a charity for purposes of the *Income Tax Act* where there are reasonable grounds to believe that it has made, makes or will make any of its resources available to a "listed entity" as defined in the *Criminal Code*, or to any other entity that is engaged in activities in support of terrorist activities. The effect of such disqualification or ineligibility is that the organization cannot offer tax benefits to donors and is ineligible to receive grants from other registered charities, greatly diminishing both its credibility and financial viability. An organization whose registered status is revoked under these provisions is required to distribute all of its assets to other registered charities or pay a revocation tax that is equal to the value of any undistributed assets

IV. Travel ban

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

Paragraph 2(b) of Resolution 1390 is enforced by virtue of Section 34 and 35 of the *Immigration and Refugee Protection Act* (IRPA); and corresponding immigration controls at our posts overseas, Ports of Entry, and our inland offices. Paragraph 34(1)(c) and 34(1)(f) of the IRPA render permanent residents or foreign nationals inadmissible to Canada on several security grounds including terrorism.

Members of al Qaida and persons associated with Osama bin Laden's regime are inadmissible under paragraphs 34(1)(c) and (f) of the IRPA. Members of the Taliban regime as senior officials of a regime designated by the Minister of Citizenship and Immigration, which may have engaged, or may engage in terrorism, are inadmissible to Canada.

In addition, individuals which have membership in an organization where there are reasonable grounds to believe has engaged, or will engage in acts of terrorism, or subversion of government are also inadmissible to Canada. Paragraph 34(1)(d) of IRPA also provides the legal authority to prevent the entry to Canada of persons where there are reasonable grounds to believe the person seeking entry to Canada poses a threat to public safety generally, including terrorism.

Section 35 of IRPA renders individuals inadmissible to Canada if there are reasonable grounds to believe that the person may have violated human or international rights for committing crimes against humanity and war crimes. Moreover, section 35(1)(b) of the IRPA specifies that individuals involved in systematic or gross human rights violations, genocide, war crimes or crimes against humanity are inadmissible to Canada.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Citizenship and Immigration (CIC) Intelligence has entered the names of the listed individuals into an immigration database Field Operations Support System (FOSS) with a "look out" advisory. This advisory alerts immigration officers overseas, at Ports of Entry and inland offices in Canada that the individual is inadmissible to Canada. No difficulties have been encountered in using the stop lists thus far.

As part of a recently implemented Advance Passenger Information / Passenger Name Recognition (API/PNR) initiative, Canada – US Joint Passenger Analysis Units also incorporate the stop lists when screening airline passengers. CIC along with the Canadian Customs and Revenue Agency (CCRA) and US border agencies have implemented Joint Passenger Analysis Units allowing Canadian and US immigration officers to screen passenger information before the flight arrives. Airline passenger manifest lists are screened while passengers are in transit against enforcement databases which includes FOSS lookouts and the incorporated stop lists. Passengers of concern are referred for an examination by either CIC or CCRA officials upon arrival.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The US State Department (Office of Counter-Terrorism) provides CIC Intelligence with information from their TIPOFF system which contains the names and information of suspected terrorists. This database is updated monthly.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

CIC has not encountered any of the listed individuals at any of the border points. As a result, there have been no interdiction, or enforcement action required.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

Please see answers to questions 16 and 17.

V. Arms embargo

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

Section 4 of the *United Nations Afghanistan Regulations* and Section 4 of the *United Nations Suppression of Terrorism Regulations* prohibit making available any property, including arms, for the benefit of a person on the 1267 consolidated list (see the portion of the response in question 14 dealing the offences of terrorist financing). For some time, Canada has had a system of strict control over the import, export and internal possession of firearms and military weapons and explosives through the *Export and Import Permits Act* and the *Criminal Code*.

The Export and Import Controls Bureau of the Department of Foreign Affairs and International Trade (DFAIT) is responsible for administering the *Export and Import Permits Act* (EIPA) which was first enacted in 1947. The EIPA delegates to the Minister of Foreign Affairs wide discretionary powers to control the flow of goods contained in the *Export Control List*.

While the economic benefits of free-flowing trade are one of Canada's greatest assets, controls have been judged essential for a variety of reasons:

- to regulate trade in military and strategic dual-use goods, and prevent the proliferation of weapons of mass destruction, as we are obliged to do under multilateral agreement;
- to prevent the supply of military goods to countries that threaten Canada's security, are threatened by internal or external conflict, and/or abuse the human rights of their citizens;
- to fulfil other international obligations; and
- to implement UN Security Council trade sanctions and embargoes.

Under current export control policy guidelines approved by Cabinet in 1986, Canada closely controls the export of military goods and technology to countries:

- which pose a threat to Canada and its allies;
- which are involved in or under imminent threat of hostilities;
- which are under United Nations Security Council sanctions; and
- whose governments have a persistent record of serious violations of the human rights of their citizens, unless it can be demonstrated that there is no reasonable risk that the goods might be used against the civilian population.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The export of military goods without an export permit (which would not be granted for Osama bin Laden, al-Qaida or Taliban) is a violation of the *Export and Import Permits Act* .

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

N/A

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

A permit would not be granted if there was any reason to believe the goods would be diverted to Osama bin Laden, al Qaida or Taliban. This is enforced by Canadian Customs and Revenue Agency and relevant police authorities.

VI. Assistance and conclusion

24. **Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

Please see Canada's Directory of Assistance submitted to the United Nations Counter-Terrorism Committee (http://domino.un.org/ctc/CTCDirectory.nsf).

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.**

N/A

26. **Please include any additional information you believe pertinent.**

N/A